

**FILED**

AUG 18 2005

**NEW JERSEY BOARD OF  
CHIROPRACTIC EXAMINERS**

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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF CHIROPRACTIC EXAMINERS

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IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF THE LICENSE OF :

Administrative Action

GLEN S. NOZEK, D.C.  
License No. MC 3571

CONSENT ORDER

TO PRACTICE CHIROPRACTIC :  
IN THE STATE OF NEW JERSEY :

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This matter was opened to the New Jersey State Board of Chiropractic Examiners upon receipt of information that Glen S. Nozek, D.C. (hereinafter "Respondent") provided care to patients which was outside the scope of chiropractic practice. Specifically, it has been alleged that Respondent advertised and provided an "allergy elimination technique" to patients who presented with complaints which he deemed to be allergy related, without performing an appropriate chiropractic examination designed to identify and document a condition warranting chiropractic care.

On March 24, 2005, Respondent appeared *pro se* at an investigative inquiry held by the Board into the matter. Having reviewed the entire record, including the testimony of Respondent at the investigative inquiry, it appears to the Board that Respondent created a separate

classification of patients in his practice for whom he employed a technique designed to eliminate allergies by performing a form of adjustment along their dorsal spine, followed by acupressure, which was based solely upon kinesiological muscle testing conducted while the patients held in their hands glass vials containing samples of potential allergens. No motion or static palpation was recorded by Respondent. No postural examination, range of motion testing, neurological testing or orthopedic examinations were performed by Respondent. The patients presenting with allergy related complaints received only the "allergy elimination technique." They were not provided a complete chiropractic examination except upon their specific request.

In addition, a review by the Board of Respondent's advertisement or public representation promoting the allergy elimination technique disclosed assertions which could not be substantiated regarding the efficacy of the technique, together with a failure to set forth the name of at least one licensee responsible for the chiropractic practice in the facility identified in the advertisement or public representation.

These facts establish a basis for disciplinary action pursuant to N.J.S.A. 45:1-21(e) and (h) in that Respondent has engaged in professional misconduct as determined by the Board and has failed to comply with regulations administered by the Board. Respondent failed to identify and document, based upon an appropriate chiropractic examination, a clinical condition warranting chiropractic care for all of his patients, contrary to N.J.A.C. 13:44E-1.1 (Scope of practice); failed to create and maintain chiropractic patient records containing minimally required elements for all patients, contrary to N.J.A.C. 13:44E-2.2 (Patient records); and used an advertisement or public representation which promoted out of scope services, made unsubstantiated claims, and failed to identify of at least one responsible licensee, contrary to N.J.A.C. 13:44E-2.1. Respondent has agreed that he will surrender his chiropractic license to the Board; and has agreed not to practice chiropractic, or to hold himself out to the public as a chiropractor, in this State.

It appearing that Respondent desires to voluntarily surrender his New Jersey license without recourse to formal proceedings, and for good cause shown:

ACCORDINGLY, IT IS on this 18<sup>th</sup> day of AUGUST, 2005

ORDERED AND AGREED that:

1. Respondent's license to practice chiropractic in this State shall be and hereby is voluntarily surrendered, effective on the date of issuance of this Order.

2. Respondent agrees that he shall not apply for the reinstatement of his license to practice chiropractic in this State. Any practice in this State shall henceforth constitute grounds for the charge of unlicensed practice.

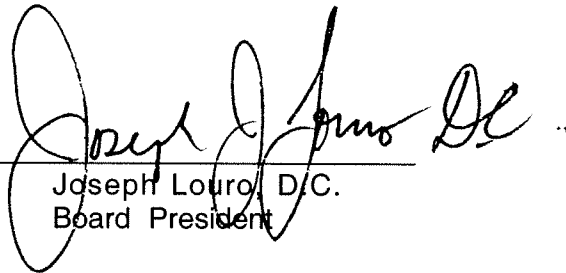
3. Respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22, in the total amount of \$2,000.00, comprised of the following: \$1,000.00 for practicing outside the scope of chiropractic practice by failing to identify and document a clinical condition warranting chiropractic care for all patients; \$750.00 for failure to create and maintain chiropractic patient records containing minimally required elements for all patients; and \$250.00 for use of an advertisement or public representation which promoted services outside the scope of chiropractic practice, made unsubstantiated claims, and failed to identify at least one responsible licensee. Payment shall be by certified check or money order made payable to the State of New Jersey, and shall be sent to: Joanne Boyer, Acting Executive Director, Board of Chiropractic Examiners at 124 Halsey Street, Sixth Floor, P.O. Box 45004, Newark, New Jersey 07101, no later than ten (10) days from the entry of this Consent Order. Subsequent violations will subject Respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

4. Respondent shall pay costs of investigation in the amount of \$733.50, which shall be paid within ten (10) days of signing this Order. Payment shall be made in the manner set forth in paragraph #3 above and sent to Joanne Boyer at the address described in paragraph #3.

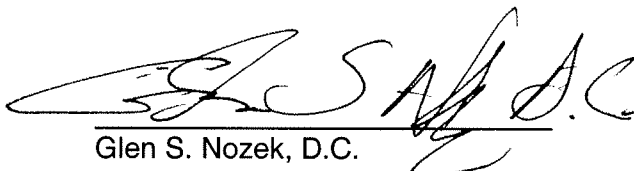
5. The Directives of the Board applicable to any Chiropractic Board licensee who is suspended, revoked or whose surrender of licensure has been accepted are incorporated by reference as though fully set forth herein, whether or not they are attached hereto.

6. Failure to comply with any provisions of this Order or to remit any and all payments required by this Order will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD OF  
CHIROPRACTIC EXAMINERS

By   
Joseph Louro, D.C.  
Board President

I have read and understand the  
within Consent Order and agree  
to be bound by its terms. Consent  
is hereby given to the Board to  
enter this Order.

  
Glen S. Nozek, D.C.

**DIRECTIVES APPLICABLE TO ANY CHIROPRACTIC BOARD LICENSEE  
WHO IS SUSPENDED, REVOKED OR WHOSE SURRENDER OF LICENSURE  
HAS BEEN ACCEPTED**

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board, shall conduct him/herself as follows:

**1. Document Return and Agency Notification**

The licensee shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, New Jersey 07102, the original license and current biennial registration certificate. With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board.

**2. Practice Cessation**

The licensee shall cease and desist from engaging in the practice of chiropractic in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry. The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by the practice or any other licensee or health care provider. In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.

A licensee whose license has been revoked, suspended for one (1) year or more or permanently ~~surrendered~~ **must** remove signs and take affirmative action to stop advertisements by which his eligibility to practice is represented. The licensee **must** also take steps to remove his/her name from professional listings, telephone directories,

professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted.

### **3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations**

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). Such divestiture shall occur within 90 days following the disqualification to own shares in the corporation. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

### **4. Patient Records**

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

### **5. Probation/Monitoring Conditions**

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board or its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a.) Monitoring of practice conditions may include, but is not limited to, inspection of professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with Board Order and accepted standards of practice.

(b.) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual or facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by the rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and by providing the designated sample.

**NOTICE OF REPORTING PRACTICES OF BOARD**  
**REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Chiropractic Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence, are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a chiropractor:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the Federation of Chiropractic Licensing Boards of the United States, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.